IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 2443 of 2004

Between:

Mohd.Iftequar Hussain, S/o.Mohd.Ishaq Hussain, R/o.3-3-129, Puranipet, Jagtial, Karimnagar Dist.

..... PETITIONER

AND

1 The Chairman & District Collector, District Selection Committee-2002, Karimnagar, Karimnagar District.
2 The Secretary and Convenor/District Educational officer, District Selection Committee-2002, Karimnagar District, Karimnagar.
3 The Commissioner of School Education, Govt. of A.P.,Hyderabad.
4 Razia Begum, wife of not Known to the petitioner, Urdu Pandit, Grade -II, Girls High School, Jagtial, Karimnagar District.
5 Sajida Gowhar, Urdu pandit,Grade II,Upper Primary School, Urdu Medium, Gambhir Rao Pet Town & Mandal, Karimanagar District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction or writ one more in the nature of writ of Certiorari quashing the order of the Andhra Pradesh Administrative Tribunal, Hyderabad,dt.16-4-2003 in O.A.No.11225 of 2002 as illegal, discriminatory, invalid and for a consequential relief declaring the petitioner as selected to either of the two posts of Language Pandit category-II (Urdu) to which respondents 4 and 5 were appointed and further holding that their appointment in preference to the petitioner is illegal and

invalid.

Counsel for the Petitioner:MR.P.RAM SHAH

Counsel for the Respondent No1 to 3 : GP FOR EDUCATION

Counsel for respondent Nos.4 & 5: None appeared.

The Court made the following :

O R D E R: (PER GB.J)

1) This writ petition is filed challenging the order passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.11225 of 2002, dated 16.04.2003.

2) The petitioner is applicant before the Tribunal. On 11.05.2002, the Government issued a notification for the appointment of Teachers in various posts including Grade-II Urdu Medium Teachers. In the present writ petition, we are only concerned with the appointment of Teachers of Karimnagar District. Out of three posts, one post

is reserved for O.C., another for BC-A(W) and the third post for SC-A(W). However, in the O.C.quota, lady candidates who secured merit were appointed. But, since there are no eligible candidates in BC-A(W) and SC-A(W), the Government issued G.O.Ms.No.89, Education (Ser-VI) Department, dated 07.11.2002 to the effect that if SC/ST/BC & women candidates are not available, an equal number of vacancies coming under open categories shall be reserved to S.C./S.T./B.C. & Women Categories in future recruitment to the extent of the posts now filled up by the O.C. candidates, as contemplated under Rule 22(12(h) of the Andhra Pradesh State and Sub-ordinate Service Rules, 1996 (for short 'The Rules') Accordingly, respondents 4 and 5 were selected. Assailing the selection, the petitioner filed O.A. 11225 of 2002 before the Tribunal on the ground that when once the vacancies are reserved for BC-A, SC-A & O.C. candidates, again the women candidates, who secured lesser marks than the petitioner, cannot be appointed. The Tribunal taking into consideration Rule 22 (12) (h) of the Rules and also the fact that the Government issued further clarification dated 10.11.2002, held that the appointment of respondents 4 and 5 was held to be valid and legal. Assailing the said order, the present writ petition has been filed.

3) The learned counsel for the petitioner reiterates the same proposition to the effect that when once the reserved vacancies are de-reserved, open category candidates should be filled up and therefore, the question of filling up all these candidates by women candidates is not permissible.

4) The said contention of the learned counsel for the petitioner cannot be accepted in view of the fact that in the de-reserved vacancies, women were directed to be filled up in the posts and the said posts were directed to carry forward in the respective categories. Under those circumstances, we do not find that there is any illegality or irregularity in the order passed by the Tribunal.

5) Hence, the writ petition is dismissed. However, if there are any vacancies in the

posts of Urdu Medium Teachers in Grade-II category in Karimnagar District, the case of the petitioner shall be considered in O.C. category, subject to the availability of vacancies. No costs.

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G.BIKSHAPATHY.J.,

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P.S.NARAYANA.J

Dt.06.04.2005

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To

1 The Chairman & District Collector, District Selection Committee-2002, Karimnagar, Karimnagar District.
2 The Secretary and Convenor/District Educational officer, District Selection Committee-2002, Karimnagar District, Karimnagar.
3 The Commissioner of School Education, Govt. of A.P.,Hyderabad.
4 2 CCs to the G.P. for Education, High Court of A.P., Hyderabad.

5) 2 CCs to the G.P. for Services-I, High Court of A.P., Hyderabad.

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